

California Passes Hemp Bill into Law

Article By:

Food and Drug Law at Keller and Heckman

- On October 6, 2021, California Governor Gavin Newsom signed [AB 45](#) into law, which allows for the inclusion of hemp and cannabinoids (e.g., CBD), extracts, or derivatives of hemp in food and beverages, dietary supplements, cosmetics, and processed pet food provided that they, among other things, contain less than 0.3% THC.
- THC (or “THC and comparable cannabinoid”) is broadly defined to include (1) tetrahydrocannabinolic acid; (2) any tetrahydrocannabinol, including Delta-9 THC (the molecule traditionally recognized as THC), as well its isomers [Delta-8 THC](#) and Delta-10 THC; and (3) any other cannabinoid (except CBD), that the California Department of Health (the Department) determines causes intoxication. The Department may exclude from the definition of THC any THC isomer that does not cause intoxication.
- Among other the things, the law:
 - Establishes a registration requirement for manufacturers of hemp products.
 - Requires testing by an independent laboratory of hemp extract in its final raw form (prior to being incorporated into a product) to ensure that the THC concentration does not exceed 0.3% and that no unsafe contaminants are present.
 - Requires that hemp products which are foods, beverages, or dietary supplements include:
 1. A label, scannable barcode, internet website, or QR code linking to certificates of analysis, providing, among other things, the THC content of the tested batches.
 2. The product expiration or best by date, if applicable.
 3. A statement indicating that children or those who are pregnant or breastfeeding should avoid using the product prior to consulting health professionals.
 4. A statement that cannabinoids should be kept out of reach of children.

5. The statement, “THE FDA HAS NOT EVALUATED THIS PRODUCT FOR SAFETY OR EFFICACY.”

- Prohibits the labeling, advertising, or marketing of any untrue “health-related statement,” which is defined as a “statement related to health . . . [that] suggests a relationship between the consumption of industrial hemp or industrial hemp products and health benefits or effects on health.”
- The law, however, does not provide any guidance on maximum serving sizes, active cannabinoid concentration per serving size, the number of servings per container, and similar requirements for foods and beverages, although it provides the Department with the authority to issue regulations on these issues.
- Finally, recognizing the potential future conflict with federal law, the AB 45 provides that when federal law authorizes hemp products, the Department “shall adopt new regulations either as necessary pursuant to the federal law or deemed necessary to protect consumers.”

© 2025 Keller and Heckman LLP

National Law Review, Volume XI, Number 285

Source URL: <https://natlawreview.com/article/california-passes-hemp-bill-law>